

2010 FEB 18 PM 2:25

PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0046

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

RECEIVED**FEB 24 2010****OFFICE OF PETITIONS**

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at
(571) 272-3282.

Patent Number: 5711357Application Number: 08800785Issue Date: 1/22/98Filing Date: 2/14/92

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. 01020150 0000001A 5711357 ;
original application number 01 FC:1599 2120.00 DP
original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

2/8/10
Date

[Signature]
Signature

John R. Smith
Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

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The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input checked="" type="checkbox"/> \$ <u>2055</u>	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 2055

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 65 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 65

5. MANNER OF PAYMENT

☒ Enclosed is a check for the sum of \$ 2120.☐ Please charge Deposit Account No. _____ the sum of \$ _____.☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. _____.

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7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. _____

OR

☐ Send refund check**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

John R. Smith
Signature(s) of Petitioner(s)

2/7/10
Date

John R. Smith
Typed or printed name(s)

Registration Number, if applicable

370 S. E. 12th St.
Address

802-558-2091
Telephone Number

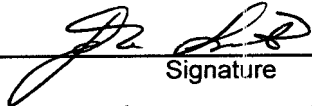
Pompano Beach, FL 33060
Address

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Statement why maintenance fee was not paid timely
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
☐ Other: _____

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."


Signature
John R. Smith
Type or printed name

2/2/10
Date

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.) 1

On 1/20/10 I went online to pay the maint. fee for this patent and submitted banking info. to have the sum electronically transferred. An error message came up so I reentered the info. and an error message came up again. (As you can see by the enclosed e-mail there was no reason for this to have not gone through) I couldn't find anywhere on the site that would explain the error message so I called the maintenance fee branch for assistance.

I reached a representative who identified himself as Michael. He told me he couldn't check the codes and advised me to file a credit card payment form. I transferred funds from 1 acct. to another on 1/22 so I could use my debit/credit card. (continued)

(Please attach additional sheets if additional space is needed)



After doing this I called the maint branch again on 1/25 to get the fax # to send in the credit card form. I faxed in the form at 11:25 A.M. on 1/25 and thought I was all set.

I checked my acct on 1/26 and didn't see the \$ taken out yet but sometimes it doesn't show up the same day.

On 1/27 I called the maint. branch at 8:50 A.M. and talked to Michael again because the money hadn't been deducted I told him I was concerned because I knew the fee had to be paid that day. He looked it up and told me. "You don't have to worry, there is a time stamp on your credit card app. for 1/25. The person who runs the cards probably hasn't run it yet" I then asked what happens if the card doesn't go thru for some reason. He said they will call if there is a problem.

On 2/1 I called the maint. branch again because the \$ hadn't been taken out of my acct. And I had received no calls or messages on my machine indicating there were any problems. I reached the same Michael

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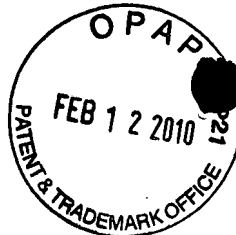
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I had talked to previously. At this time he gave me the same answer that apparently the card hadn't been submitted yet and to give it a couple more days.

On 2/3/10 I received the letter saying my payment hadn't been accepted and my patent had expired!

I then called the bank to find out why my card hadn't been accepted when I had adequate funds in the account. I was told that debit/credit cards automatically have a \$500/day limit and that with a call this can be changed immediately.

I made every effort to pay this fee by 1/27 and made several calls to verify payment. I was consistently told not to worry by the maint. branch rep. and never received a call or message that there was a problem with payment going through. If I had known there was a problem I could have corrected it with one call.



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USPTO EFT User Profile - Successful

From: **DoNotReply@uspto.gov**

Sent: Fri 1/29/10 12:05 PM

To: JRSFL@HOTMAIL.COM

The banking information submitted on 01-20-2010 for your EFT user profile has been validated. You may now make EFT payments over the USPTO Web site at www.uspto.gov. To modify your EFT user profile, click on the "eBusiness" link at the top of the site, and then click on the "Revenue Accounting and Management" link. Thank you.